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10/810,703	03/29/2004	Takahiro Kurosawa	03500.018001.	9054

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EXAMINER	
CUTLER, ALBERT H	

ART UNIT	PAPER NUMBER
2622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/810,703	KUROSAWA ET AL.	
	Examiner	Art Unit	
	ALBERT H. CUTLER	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 August 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11,13-16,18-21 and 23-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11,13-16,18-21 and 23-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is responsive to communication filed on August 23, 2010. Claims 11, 13-16, 18-21 and 23-31 are pending in the application and have been examined by the Examiner.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 23, 2010 has been entered.

Response to Arguments

3. Applicant's arguments with respect to claims 11, 13-16, 18-21 and 23-31 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 21, 23-25, 27, 29 and 31 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims recite, *inter alia*, "A computer readable medium which stores a program for executing a method ..." After close inspection, the Examiner respectfully notes that the disclosure, as a whole, does not specifically identify what may be

included as a computer readable medium and what is not to be included as a computer readable medium.

An Examiner is obliged to give claims their broadest reasonable interpretation consistent with the specification during examination. The broadest reasonable interpretation of a claim drawn to a computer readable medium (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals *per se* in view of the ordinary and customary meaning of computer readable media, particularly when the specification is silent. See MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal, *per se*, the claim must be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter.

Therefore, given the silence of the disclosure and the broadest reasonable interpretation, the computer readable medium of the claims may include transitory propagating signals. As a result, the claim pertains to non-statutory subject matter.

However, the Examiner respectfully submits a claim drawn to such a computer readable medium that covers both transitory and non-transitory embodiments may be amended to narrow the claim to cover only statutory embodiments to avoid a rejection under 35 U.S.C. § 101 by adding the limitation "non-transitory" to the claim. Such an amendment would typically not raise the issue of new matter, even when the specification is silent because the broadest reasonable interpretation relies on the ordinary and customary meaning that includes signals *per se*. For additional

information, please see the Patents' Official Gazette notice published February 23, 2010 (1351 OG 212).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 11, 13-16, 18-21, 23-25 and 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Igarashi et al.(US 6,469,737).

Consider claim 16, Igarashi et al. teaches:

An apparatus for generating a plurality of moving picture files (camera control apparatus, 1001, figure 1), comprising:

a receiving unit (video-image input unit, 1018, command interpreter, 1012) configured to receive (a) moving picture data, from a camera unit (The video-image input unit (1018) receives moving picture data from a camera unit (1003), column 3, lines 28-31.), and (b) a camera control command for controlling the camera unit which is taking the moving picture data (A character string corresponding to a file name is interpreted as a command, column 4, lines 3-8. The command is interpreted by the command interpreter (1012), column 4, lines 16-24.), from a terminal apparatus displaying the moving picture data taken by the camera unit (A browser (i.e. at a

terminal apparatus) displays the video image (column 3, lines 66 and 67, column 4, lines 43-45), and sends the request for desired image data, column 3, lines 44-50. See also column 20, lines 61-67.);

a determining unit (camera control apparatus, 1001) configured to determine a time for dividing the moving picture data, for generating plural moving picture files based on the information about the camera control command for controlling the camera unit which is taking the moving picture data (The camera control apparatus (1001) determines a time for dividing the moving picture data based on a designated time registered in a registration register (1014), and generates files containing image data, column 5, lines 30-36. The registration register stores information pertaining to the camera control command, column 5, lines 6-8. Plural files are generated when receiving a command containing multiple reservations, as detailed in column 8, lines 57-67 and column 9, lines 25-28, figure 17. The Examiner interprets the multiple "gif" images (see e.g. figure 17) obtained to be "moving picture files", as they are files generated from the moving picture. For instance, the obtained images are obtained at a video image input (1018, figure 1) and stored in image memory (1019), column 5, lines 30-36.);

a dividing unit (camera control apparatus, 1001) configured to divide the moving picture data at the time determined by the determining unit (The camera control apparatus (1001) divides the moving picture data by storing desired image data as a file in memory, column 5, lines 30-36. The moving picture data is divided into plural "gif" images as detailed in column 8, lines 63-67 and column 9, lines 25-28, figure 17.); and

a generating unit (camera control apparatus, 1001) configured to generate a plurality of moving picture files, each including divided moving picture data divided by the dividing unit (The moving picture data is divided into plural "gif" images (i.e. moving picture files each including divided moving picture data) as detailed in column 8, lines 63-67 and column 9, lines 25-28, figure 17.).

Consider claim 18, and as applied to claim 16 above, Igarashi et al. further teaches:

the camera control command is a command relating to switching of the camera unit to another camera unit (See column 14, line 64 through column 15, line 9. A plurality of different cameras can transmit a plurality of divided image files having their own respective image-sensing conditions (i.e. their own control information).).

Consider claim 19, and as applied to claim 16 above, Igarashi et al. further teaches:

the camera control command is a command indicating that one of pan, tilt, and zoom of the camera is being processed ("panning, tilting and zooming", figure 3, column 4, lines 1-8).

Consider claim 20, and as applied to claim 16 above, Igarashi et al. further teaches:

the camera control command is a command indicating that one of pan, tilt, and zoom of the camera is being processed ("panning, tilting and zooming", figure 3, column 4, lines 1-8), and

wherein the determining step determines the time for dividing the moving picture data based on timing at which the change amount per unit time exceeds a predetermined change amount per unit time (When reading multiple images, each having different pre-set camera positions, the interval between images depends on "the operation speed of the camera panhead" (i.e. the change amount per unit time), column 12, lines 31-54.).

Claim 11 recites a method having similar scope and content to claim 16, and is thus rejected using the same rationale presented with respect to claim 16 (See claim 16 above).

Consider claim 13, and as applied to claim 11 above, Igarashi et al. further teaches:

the camera control command is a command relating to switching of the camera to another camera (See column 14, line 64 through column 15, line 9. A plurality of different cameras can transmit a plurality of divided image files having their own respective image-sensing conditions (i.e. their own control information).).

Consider claim 14, and as applied to claim 11 above, Igarashi et al. further teaches:

the camera control command is a command indicating that one of pan, tilt, and zoom of the camera is being processed ("panning, tilting and zooming", figure 3, column 4, lines 1-8).

Consider claim 15, and as applied to claim 11 above, Igarashi et al. further teaches:

the camera control command is a command indicating that one of pan, tilt, and zoom of the camera is being processed ("panning, tilting and zooming", figure 3, column 4, lines 1-8), and

wherein the determining step determines the time for dividing the moving picture data based on timing at which the change amount per unit time exceeds a predetermined change amount per unit time (When reading multiple images, each having different pre-set camera positions, the interval between images depends on "the operation speed of the camera panhead" (i.e. the change amount per unit time), column 12, lines 31-54.).

Consider claim 28, and as applied to claim 11 above, Igarashi et al. further teaches:

the determining step determines the time for dividing the moving picture data based on the timing of controlling the camera unit toward a pre-set position (When

reading multiple images, each having different pre-set camera positions, the interval between images depends on "the operation speed of the camera panhead" (i.e. timing of controlling the camera unit toward a pre-set position), column 12, lines 31-54.).

Consider claim 30, and as applied to claim 11 above, Igarashi et al. further teaches:

the camera control command is a command relating to changing the direction of the camera unit (Panning and tilting involve changing the direction of the camera unit, figure 3, column 4, lines 1-8).

Claim 21 recites a method having similar scope and content to claim 16, and is thus rejected using the same rationale presented with respect to claim 16 (See claim 16 above). Igarashi et al. further teaches that the method can be stored as a program on a computer readable medium (column 13, line 37 through column 14, line 21).

Claims 23-25, 29 and 31 are similar in scope and content to claims 13-15, 28 and 30 above, and are thus rejected using the same rationale presented with respect to claims 13-15, 28 and 30 (See claims 13-15, 28 and 30 above).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugahara (US 2002/0146238) in view of Igarashi et al. (US 2002/0146238).

Consider claim 26, Sugahara teaches:

A method of generating a plurality of moving picture files, the method comprising:

receiving (a) moving picture data (A video signal (i.e. moving picture data) is received at a video input terminal (11) of a video recording/reproducing apparatus (10), figure 1, paragraph 0048, lines 1-3 and paragraph 0050, lines 1-3.), and b) area information about a prohibited area which is prohibited from being displayed, from a terminal apparatus (A user operation terminal (i.e. terminal apparatus, 15) is used to input a dividing method for dividing an encoded signal, and particularly password management information (i.e. area information about a prohibited area which is prohibited from being displayed), paragraph 0051. Subsequently, a reproduction control

unit (38) prohibits an area of the moving picture from being displayed unless a correct password is entered, paragraph 0057, lines 1-3, paragraph 0071.);

determining a time for dividing the moving picture data (see figure 3), based on the area information about the prohibited area such that a first moving picture file based on a first moving picture data received in a period between a first time and a second time (see program 1, figure 3), a second moving picture file based on a second moving picture data received in a period between the second time and a third time (see program 2, figure 3), and a third moving picture file based on a third moving picture data received in a period between the third time and a fourth time (see program 3, figure 3) are generated in a case where (a) the first moving picture data (program 1) does not include the prohibited area, (b) the second moving picture data (program 2) includes the prohibited area ("reproduction lock area", figure 3), and (c) the third moving picture data (program 3) does not include the prohibited area (The contents shown in figure 2 are "continuously recorded as a program 1, a program 2, and a program 3", paragraph 0062. A first portion (i.e. file) is created with a starting and ending time and designated program 1, paragraph 0063. Sections (i.e. files) having designated starting and ending times are similarly created and designated as programs 2 and 3, paragraph 0064. Program 2 contains a reproduction lock area (i.e. prohibited area), and programs 1 and 3 do not contain a reproduction lock area, as shown in figure 3. In paragraph 0073, and figure 4, Sugahara teaches that reproduction lock areas are designated within areas of individual programs.); and

dividing the moving picture data at the time determined at the determining step (The moving picture data is divided into the three portions as detailed in paragraphs 0063 and 0064.),

wherein the first, second, and third moving picture files are generated based on the moving picture data divided in the dividing step (The moving picture data is divided into the three portions (i.e. files) as detailed in paragraphs 0063 and 0064. Sugahara teaches that the data recorded on the recording medium is recorded as files in paragraphs 0106 and 0116.).

Sugahara further teaches that the video signal comes from an Internet broadcast (paragraph 0129).

However, Sugahara does not explicitly teach receiving the moving picture data from a camera unit, receiving a camera control command for controlling the camera unit which is taking the moving picture data, or that the camera unit is controlled in accordance with the camera control command.

Igarashi et al. similarly teaches transferring video images to a client over a network (column 1, lines 8-12).

However, in addition to the teachings of Sugahara, Igarashi et al. teaches receiving the moving picture data from a camera unit (video camera, 1003, column 3, lines 11-24) and receiving a camera control command for controlling the camera unit which is taking the moving picture data (See figures 3 and 6, column 4, lines 1-15, column 9, lines 49-59, column 11, lines 34-57. Picture data, which data can be "mpg" format, is obtained by a camera configuration along with command for controlling the

camera (See P25T0Z3, figure 3).), and determining a time for dividing the moving picture data based on the camera control command (See figure 6, column 10, lines 33-36, column 11, lines 51-57. A time point (i.e. image-sensing time) and a time interval can be designated for determining where the moving picture data is divided based upon the control information.).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention to receive the moving picture data taught by Sugahara from a camera unit as taught by Igarashi et al., and divide the moving picture data based a camera control command as taught by Igarashi et al. for the benefit of fulfilling a market need for end users to see video images sensed by a camera at a remote place via the Internet (Igarashi et al., column 1, lines 21-24) while ensuring that the video images reproduced on the user side are the video images that the user wants to see (Igarashi et al., column 1, lines 45-48).

Consider claim 27, Sugahara further teaches that the invention is implemented via a recording medium recorded with a computer-readable program (paragraph 0002, lines 8-13). The rest of claim 27 is similar in scope and content to claim 26, and is thus rejected using the same rationale presented with respect to claim 26 (See claim 26 above).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALBERT H. CUTLER whose telephone number is (571)270-1460. The examiner can normally be reached on Mon-Thu (9:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Albert H Cutler/
Examiner, Art Unit 2622